



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

April 29, 2003

Marin County Board of Supervisors
3501 Civic Center Drive
SAN RAFAEL, CA 94903

**SUBJECT: Continued Hearing on Adoption of Marin County Development Code
Text Amendments to Zoning and Subdivision Regulations**

Dear Board Members:

RECOMMENDATION: Staff recommends that the Board review the additional revisions summarized below and set out in Attachment 1 of this report, conduct a public hearing, and direct staff to refer the revisions to the Planning Commission for report and recommendation at a public hearing before taking final action to adopt the Development Code and to certify the Supplemental Final Environmental Impact Report. The Board should continue the hearing of April 29, 2003 to the meeting of June 24, 2003.

BACKGROUND: At the Board of Supervisors meeting of March 18, 2003, the Board considered a recommendation to adopt the proposed Development Code consisting of an update to most of the County's regulations for the use of land and buildings in unincorporated Marin. This first phase focuses primarily on reorganizing, reformatting, and revising the text of the current zoning and subdivision ordinances to improve their readability and to create a comprehensive reference document. The Development Code does, however, include more substantive changes to certain agricultural zoning regulations that evolved as an outgrowth of an Agricultural Zoning Study conducted by the Planning Commission in 1996. In addition, updated regulations in the areas of energy conservation and stream conservation have been included during the later stages of the update process to reflect more recent code and policy changes. Subsequent phases of the Development Code are intended to address substantive policy issues which may be linked to the pending update of the Countywide Plan, as well as minor technical updates as needed.

Most of the issues raised in correspondence and testimony received in connection with the Board's March 18, 2003 meeting related to the proposed agricultural zoning revisions. In general, these revisions are intended to support the agricultural industry in Marin by eliminating the Use Permit requirement for processing and retail sale of agricultural products produced locally, allowing a diversification of compatible uses on commercial agricultural properties, and to clarifying the County's long-standing practice of waiving the Master Plan requirement for agricultural production activities. After considering public comment and responses by staff, the Board continued the matter to their meeting of April 29, 2003.

In response to these issues, staff has prepared additional revisions aimed at balancing the competing concerns and interests of simplifying the permit process for agricultural projects while maintaining adequate land use controls. These revisions are summarized below and presented in Attachment 1 of

this report. Additional responses to written comments received by the Community Development Agency have also been prepared and included as Attachment 2 of this report.

Use Permit Thresholds & Design Review for Agricultural Processing and Retail Sale Facilities

The current zoning code requires a Use Permit for any agricultural processing or retail sales facilities. The Development Code proposes to eliminate the Use Permit requirement for processing and retail sales facilities that use products produced on-site or elsewhere in Marin. (Refer to land use tables in Articles II and V.) This change in the current process is intended to reduce the economic hardship and disincentive resulting from the costs of obtaining a Use Permit for production and sales activities that are essential to the continuation of agricultural production. Instead of requiring a Use Permit for these uses, the Development Code would rely upon the Design Review process to maintain discretionary review authority and to implement plan policies and zoning standards. Staff has revised the Design Review findings to place a greater emphasis on the use aspects of a development proposal. (Refer to Attachment 1.)

A variation of the Development Code proposal summarized above is to approach the issue of Use Permit controls from the standpoint of the size of processing and retail sales facilities in addition to the source of the product. That is to say that a Use Permit could also be required for a processing or retail sales facility if it exceeds a specified floor area. This approach would also address the intensity of proposed land uses, which are, in part, a function of the size of the facilities as well as the amount of products being processed or sold. The text revision included in Attachment 1 indicates that a Use Permit would be triggered for a retail sales facility that exceeds 1,000 square feet of total floor area and for a processing facility that exceeds 10,000 square feet of total floor area. Should the Board choose to include this revision in its decision on the Development Code, it should first be referred to the Planning Commission for consideration inasmuch as the floor area thresholds for a Use Permit were not included in the prior Planning Commission deliberations on the Development Code.

Master Plan Waiver for Agricultural Projects

The current zoning ordinance allows the Director to waive the requirements for a Master Plan for certain types of projects or more generally for minor projects in planned districts that are within the intent and objectives of the governing zoning. Where a Master Plan is waived, the Director can instead require a lesser entitlement such as Design Review and/or Use Permit. Historically, the County has not required a Master Plan or other discretionary entitlements for basic agricultural production uses such as cultivation and harvesting of crops and grazing and keeping of livestock, as well as related agricultural structures such as barns and storage buildings and maintenance of existing improvements. The Development Code attempts to reflect this administrative practice by establishing a mandatory Master Plan waiver for agricultural accessory structures, agricultural improvements and agricultural developments in agricultural planned districts (ARP and C-APZ).

Comments made at the March 18th Board meeting raised concern that the Master Plan waiver provisions in the Development Code are not sufficiently clear to conclude that crop harvesting, grazing and other basic agricultural activities are in fact exempt from a Master Plan requirement. Other commentors expressed concern that use of the undefined terms *agricultural improvements* and *agricultural developments* in the Master Plan waiver provision may be interpreted as meaning the waiver would apply to any agricultural development proposal regardless of its nature, size, and intensity. In response to both concerns, revisions have been made to the Master Plan waiver section of the Development Code to clarify that basic agricultural activities traditionally undertaken in Marin would be automatically exempt from the Master Plan requirement, including crop production, commercial gardening, livestock operations and maintenance of existing agricultural structures and improvements. The Board could adopt this change without further Planning Commission review since the issue was previously considered during the Planning Commission hearings on the Development Code.

Refer to Right to Farm Ordinance in Planned District Standards

The Development Code applies general planned district development standards in the C-APZ and other planned district zones, including a standard requiring that noise impacts on nearby areas be minimized through the placement of buildings, recreation areas, roads and landscaping. Comments received in connection with the March 18, 2003 Board meeting contend that this standard is not appropriate in agricultural areas given the noise typically generated by agricultural activities. The comments make reference to the County Right to Farm Ordinance which deems noise from agricultural activities not be a nuisance for the purposes of the County Code. The Development Code could be revised to make reference to the Right to Farm ordinance to clarify the relationship between the noise standard and the County's policy with respect to acknowledging noise from agricultural activities. The Board could adopt this change without further Planning Commission review since the issue was previously considered during the Planning Commission hearings on the Development Code.

Affordable Housing Use Permit

The current zoning ordinance allows affordable housing in any zoning district where residential uses are not permitted subject to Use Permit approval. This provision was carried forward to the Development Code, and should be clarified through revisions to the land use tables as generally described in Attachment 1. In addition, the text revision would allow the density for affordable housing projects to be determined through the Use Permit process consistent with the density established in the Countywide Plan. These procedures would apply only to dwelling units that meet the County's affordability criteria. Should the Board choose to include this revision in its decision on the Development Code, it should first be referred to the Planning Commission for consideration inasmuch as the Planning Commission did not consider the revision during their deliberations on the Development Code.

In addition to the above revisions, staff recommends that the Development Code definition of "Agriculture" be reviewed by the Agricultural Advisory Committee in response to a request from the Marin County Farm Bureau to use a similar definition from the State Food and Agriculture Code. Input from the Committee would be provided to the Planning Commission and the Board to assist in responding to this issue.

RECOMMENDATION: Staff recommends that the Board review the additional revisions summarized above and set out in Attachment 1 of this report, conduct a public hearing, and direct staff to refer the revisions to the Planning Commission for consideration at a public hearing before taking final action to adopt the Development Code. The Board's referral to the Planning Commission should be limited to issues not previously considered in Planning Commission's deliberations as follows:

- ❑ Use Permit thresholds for agricultural processing and retail sales based upon the size of the facilities used for these activities.
- ❑ Use Permit to determine density for affordable housing projects consistent with the Countywide Plan.
- ❑ Clarifying land use review in the Design Review process.

In addition, at the Board's direction, staff will consult with the Agricultural Advisory Committee regarding the Development Code definition of "Agriculture" in relation to the State Food and Agriculture Code definition. Input from the Committee will be provided to the Planning Commission at the time of referral of the above issues.

FISCAL IMPACT: Funds for implementing the Development Code are based upon development application fees charged by the Community Development Agency for processing zoning and land use

permits. Existing and future fees are expected to be sufficient to offset the staff resources and other costs associated with implementation of the Development Code.

REVIEWED BY:	<input type="checkbox"/>	Auditor Controller	<input checked="" type="checkbox"/>	Not Applicable
	<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	Not Applicable
	<input type="checkbox"/>	Human Resources	<input checked="" type="checkbox"/>	Not Applicable

Respectfully submitted,

Alex Hinds
Agency Director

Brian C. Crawford
Deputy Director of Planning Services

Attachments: 1. April 29, 2003 Revisions to Development Code
2. Response to Comments – April 29, 2003 Board of Supervisors Hearing
3. March 18, 2003 staff report to Board
4. March 18, 2003 staff memorandum to Board of Supervisors

Note: Attachments 3 and 4 have been included in the Board packets only. The information provided in these attachments was distributed in advance of the March 18, 2003 Board of Supervisors meeting. Additional copies of the report and memorandum may be obtained upon request at the Marin County Community Development Agency.

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